

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVID GOLDSTINE,

Plaintiff,

v.

FEDEX FREIGHT, INC., a Washington State  
entity; "DOE(S) 1-100", employees of FEDEX  
FREIGHT, INC.; and CORPORATION(S)  
XYZ 1-100,

Defendants,

CASE NO. 2:18-cv-01164

NOTICE OF REMOVAL OF CIVIL  
ACTION

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, defendant FedEx Freight, Inc., hereafter "FedEx Freight," files this Notice of Removal of this case from the Snohomish County Superior Court to the United States District Court for the Western District of Washington at Seattle. This case is removable to this Honorable Court pursuant to 28 U.S.C. §§ 1441(b) and 1446 because of diversity of citizenship and the requisite amount in controversy under 28 U.S.C. § 1332.

In support of removal, FedEx Freight respectfully shows the Court:

1           1.       FedEx Freight was served, through its registered agent, with the Complaint on July  
2 19, 2018.

3           2.       The following constitutes all of the process pleadings, and orders served upon FedEx  
4 Freight in the state court lawsuit: Complaint for Damages, a true and correct copy of which is  
5 attached as Exhibit 1 and incorporated by reference as if fully set forth as part of this Notice of  
6 Removal.  
7

8           3.       Statement of applicable law – Diversity Jurisdiction.

9       **A. Diversity of Citizenship**

10          4.       Plaintiff is a resident of Everett, Washington. (Complaint ¶1).

11          5.       FedEx Freight is a corporation organized under the laws of the State of Arkansas with  
12 its principal place of business in Memphis, Tennessee, located at 1715 Aaron Brenner Drive,  
13 Memphis, Tennessee 38120. (Chase Declaration).  
14

15          6.       Nearly all of FedEx Freight's corporate functions are conducted and based in  
16 Arkansas and Tennessee, including human resources, finance, legal, payroll, and executive and  
17 administrative support functions that are important to FedEx Freight's strategic leadership and  
18 day-to-day operations. (Chase Declaration).  
19

20          7.       All of FedEx Freight's senior executive team is based in its corporate headquarters  
21 office in Memphis, Tennessee, where FedEx Freight's parent companies, FedEx Freight Corp. and  
22 FedEx Corporation also have their principal place of business. (Chase Declaration).

23          8.       FedEx Freight is a wholly-owned subsidiary of FedEx Freight Corporation, a  
24 corporation incorporated under the laws of the State of Delaware. FedEx Freight Corporation's  
25 principal place of business is located at 1715 Aaron Brenner Drive, Memphis, Tennessee. (Chase  
26 Declaration).  
27  
28

1           9.       FedEx Freight Corporation is a wholly-owned subsidiary of FedEx Corporation, a  
2 publicly-held corporation incorporated under the laws of the State of Delaware. FedEx  
3 Corporation's principal place of business is located at 942 Shady Grove Road, Memphis, Tennessee.  
4 FedEx Corporation's functions are centrally managed from its headquarters in Memphis, Tennessee.  
5 (Chase Declaration).  
6

7           10.       For these reasons, the Memphis location is considered to be the corporate  
8 headquarters and the "home office" for FedEx Freight from which senior leadership directs, controls  
9 and coordinates FedEx Freight's corporate activities. (Chase Declaration).

10           **B. Amount in Controversy**

11           11.       Plaintiff is seeking damages "including but not limited to lost wages, future wage  
12 loss, other benefits, loss of earning capacity, mental distress, physical damages, emotional distress,  
13 and pain and suffering, in an amount to be proven at trial." (Complaint ¶ 62 and Prayer for Relief).

14           12.       Plaintiff also is seeking attorney's fees, exemplary and punitive damages, and  
15 compensation for any tax penalty associated with recovery. (Prayer for Relief).  
16

17           13.       In 2016, Plaintiff's only full calendar year of employment with FedEx Freight,  
18 his total W-2 earnings were \$74,934.32. (Chase Declaration).

19           14.       In 2016 Plaintiff's hourly rate of pay was \$24.03 and mileage rate of pay was  
20 \$0.5976 until October 8, 2016, and \$24.28 and \$0.6026 for the remainder of that year. (Chase  
21 Declaration).  
22

23           15.       Plaintiff's hourly rate increased to \$25.83 and mileage increased to \$0.6411  
24 effective February 25, 2017, and continued at that rate for the remainder of his employment  
25 with FedEx Freight. (Chase Declaration).

26           15.       Plaintiff's average weekly wage for the full weeks he worked after his hourly rate  
27 increased to \$25.83 and mileage to \$0.6411 was \$1,467.84. (Chase Declaration).  
28

17. The last day Plaintiff performed work at FedEx Freight was April 11, 2017, which is more than 67 weeks ago. (Chase Declaration).

18. Although FedEx denies liability in this action and denies it owes Plaintiff any amount, the amount in controversy based on Plaintiff's allegations is in excess of \$75,000, without consideration of interest or costs.

**C. Removal is Proper**

19. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 in that this is a civil action between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

**D. Removal is Timely**

20. This Notice of Removal is filed with this Court within thirty (30) days after service on FedEx of the Summons and Complaint for Damages in this action. *Destino v. Reiswig*, 630 F.3d 952, 956 (9<sup>th</sup> Cir. 2011); *Green v. Wachovia Mtg. FSB*, U.S. Dist. Lexis 80923 (E.D. Wash. 2011) (time for removal triggered by formal service).

21. No other defendant has been served with process or specifically identified in this action.

DATED this 8<sup>th</sup> day of August, 2018.

KARR TUTTLE CAMPBELL

/s/ Medora A. Marisseau

Medora A. Marisseau, WSBA #23114

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Seattle, WA 98104

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Attorney for Defendant FedEx Freight, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 8<sup>th</sup>, 2018, I caused to be served a copy of the foregoing Notice of Removal to:

Ada K. Wong, Esq.  
AKW Law, P.C.  
6100 219<sup>th</sup> St., SW, Suite 480  
Mountlake Terrace, WA 98043  
Tel: 206.259.1259  
FAX: 855.925.9529  
Email: ada@akw-law.com

☒ via U.S. Mail  
☐ via ABC Legal Messenger  
☒ via Electronic Mail  
☐ via Overnight Mail

Signed this 8<sup>th</sup> day of August, 2018, at Seattle, Washington.

/s/ Kami R. Mejia  
Kami R. Mejia  
Litigation Legal Assistant